IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No. 232 of 2007

DATE OF DECISION: 2.11.2007

The Commissioner of Income Tax, Faridabad

…Appellant

Versus

M/s Motorola India Ltd.

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. Yogesh Putney, Advocate,
for the appellant-revenue.

M.M. KUMAR, J.

This appeal has been filed under Section 260A of the Income-tax Act, 1961 (for brevity, 'the Act'), against order dated 22.9.2006, passed by the Income Tax Appellate Tribunal, Bangalore Bench 'A', (for brevity, 'the Tribunal), in I.T.A. No. 1380(Bang)/ 2003, in respect of assessment year 1997-98. It is claimed that the following substantial questions of law would arise for determination of this Court:-

(i) Whether on the facts and circumstances of the case, the Tribunal is right in allowing the loss on account of valuation of foreign exchange liability on the last day of the accounting year?

(ii) Whether on the facts and circumstances of the case, the Tribunal is right in ignoring the fact that the assessee company claims translation losses on account of valuation of foreign exchange liability,

but does not recognize corresponding gains, which is not in consonance with Accounting Standard II?

(iii) Whether on the facts and circumstances of the case, the Tribunal is right in ignoring the fact that the assessee company claims translation losses on account of valuation of foreign exchange liability, but does not make any corresponding adjustment in the valuation of closing stock?

(iv) Whether on the facts and circumstances of the case the Tribunal is right in stating that the decisions of the High Courts other than the jurisdictional High Court are not binding on it, especially those touching the issue squarely, whereas the decision of a Special Bench of the Tribunal or a Bench other than its own Bench, is binding on it?

It is apposite to notice at the outset that in the present appeal all proceedings in relation to assessment year 1997-98 i.e. filing of return, passing of assessment order by the Assessing Officer, passing of appellate order by the CIT (Appeals) as well as further order by the Tribunal, have taken place at Bangalore. It is also relevant to notice here that another appeal bearing ITA No. 44 of 2005, challenging the order dated 29.6.2004, passed by the Bangalore Bench Tribunal, in I.T.A. No. 136(Bang)/2000, in respect of assessment year 1996-97, between the same parties was also filed in this Court. In the aforementioned appeal, counsel appearing for the assessee-respondent at the outset raised a preliminary objection concerning maintainability of the appeal and also to territorial

jurisdiction of this Court to entertain the appeal. While dealing with the aforementioned controversy, we dismissed ITA No. 44 of 2005 between the same parties as well as another appeal bearing ITA No. 45 of 2005, vide our detailed judgment and order dated 3.10.2007, by sustaining the preliminary objection that this Court has no territorial jurisdiction over an order passed by the Assessing Officer at Bangalore and the aforementioned appeals were returned to the revenue-appellant for their filing before the competent court of jurisdiction in accordance with law.

In the instant appeal since all the orders by the revenue authorities as well as the Tribunal have been passed at Bangalore, therefore, we have no hesitation to adopt the same course of action as has been adopted by us in our detailed judgment passed in ITA No. 44 of 2005, decided on 3.10.2007.

In view of the above, the appeal is dismissed as this Court has no territorial jurisdiction over an order passed by the Assessing Officer at Bangalore. Accordingly, this appeal is returned to the revenue-appellant for its filing before the competent court of jurisdiction in accordance with law.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

November 2, 2007
Pkapoor